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SADACHARAMANI GOVINDASAMY & ANOR

v.

TETUAN SHAHRIZAT, RASHID & LEE

B

HIGH COURT MALAYA, KUALA LUMPUR
HISHAMUDIN MOHD YUNUS J
[CIVIL SUIT NO: D1-22-1018-2006]
13 APRIL 2009

C ***CIVIL PROCEDURE:*** *Particulars - Further and better particulars - Application for - Particulars may only be sought of matters arising from pleadings - Discretion of court - Whether particulars requested were matters of evidence - Whether defendant under a duty to furnish relevant particulars - Whether particulars requested were fair and relevant*

D

The plaintiffs alleged that the defendant (a firm of advocates and solicitors) had without the knowledge and authorization of the plaintiffs purported to represent the plaintiffs in two civil suits in the High Court of Kuala Lumpur. The plaintiffs sought a declaration that the conduct and actions of the defendant had been without the authority of the plaintiffs and were therefore null and void. In the first civil suit, two companies, namely, IEV International Pty Ltd ('IEV') and IEV (S. E. A.) Sdn Bhd ('IEVSB'), had sued the plaintiffs for alleged infringement of patent rights ('the infringement suit'). The plaintiffs appointed Messrs Skrine & Co. to represent them in the first civil suit. In the second civil suit, the 2nd plaintiff in the present case, through Messrs Skrine & Co., commenced an action against IEV to invalidate the patent obtained by IEV ('the invalidation action'). The plaintiffs alleged that the defendant had without the knowledge or authorization purported to replace Messrs Skrine & Co as the plaintiffs' solicitors in both the suits and had proceeded to do certain acts that compromised or were detrimental to the plaintiff's position in the two suits. By a summons in chambers application pursuant to O. 18 r. 12(3) of the Rules of the High Court 1980, the plaintiffs sought further and better particulars in respect of certain paragraphs of the statement of defence and counter-claim. The defendant objected to furnishing the particulars sought. The Senior Assistant Registrar disallowed the application, and hence the present appeal.

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Held, allowing the appeal:

(1) Particulars may only be sought of matters arising from the pleadings. It is a matter of discretion of the court whether to grant an order of particulars. Particulars would not generally be ordered in respect of matters of evidence or inference drawn or substitute interrogatories. (para 18)

(2) Since the issue of the appointment of the defendant by the plaintiffs was crucial, and since the defendant alleged that the 2nd plaintiff had delivered a letter (containing the Notice of Change of Solicitors) to the lst plaintiff, and this allegation was denied by the plaintiffs, the defendant was under a duty to furnish the plaintiffs with the relevant particulars pertaining to the delivery of the letter. (para 29)

(3) In relation to the invalidation action, the plaintiffs denied having received a letter in question or having affirmed an affidavit as alleged. The plaintiffs alleged that the affidavit was prepared without their authorization and that the signature in the alleged affidavit was a forged signature. Since the plaintiffs maintained that they never appointed the defendant, nor authorised the preparation of any affidavit; and had never affirmed any affidavit, they were entitled to the particulars sought regarding the alleged letter and affidavit. (paras 31 & 33)

(4) The 2nd plaintiff denied having made any payment of legal fees. The plaintiffs sought particulars as to where the defendant's bill for the legal fees was sent and as to how the legal fees were paid. The plaintiffs were entitled to these particulars as the particulars asked for were fair and relevant. (paras 57 & 59)

Case(s) referred to:
Dato' Seri Ling Liong Sik v. Krishna Kumar Sivasubramaniam [2002] 2 CLJ 642 HC ***(refd)***

Legislation referred to:
Companies Act 1965, s. 236
Rules of the High Court 1980, O. 18 r. 12(3)

For the plaintiffs - PS Gill; M/s Gill & Tang
For the defendant - Harjinder Kaur; M/s Shahrizat Rashid & Lee

Reported by Amutha Suppayah

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JUDGMENT

Hishamudin Mohd Yunus J:

B **[1]** Encl. 12 is an appeal by the plaintiff to judge in chambers against the decision of the learned Senior Assistant Registrar who had refused to allow the plaintiffs' application pursuant to O. 18 r. 12(3) of the Rules of the High Court 1980 for further and better particulars.

C

[2] Order 18 r. 12(3) provides:

> (3) The Court may order a party to serve on any other party particulars of any claim, defence or other matter stated in his pleading, or in any affidavit of his ordered to stand as a
D pleading, or a statement of the nature of the case on which he relies, and the order may be made on such terms as the Court thinks just.

[3] I have allowed the appeal with costs in the cause.

E **[4]** I shall now give my grounds.

[5] The first plaintiff is a director of the 2nd plaintiff company. The defendant is a firm of advocates and solicitors.

F **[6]** In the present action, the plaintiffs are seeking a declaration against the defendant that the conduct and actions of the defendant since 18 July 1996 had been without the authority of the plaintiffs and are therefore null and void. They are also claiming damages.

G **[7]** The plaintiffs allege that the defendant firm without the knowledge and authorization of the plaintiffs purported to represent the plaintiffs in two civil suits in the High Court of Kuala Lumpur. In the first civil suit, two companies, namely, IEV International Pty Ltd (a company registered in Australia,
H hereinafter referred to as 'IEV') and IEV (S.E.A.) Sdn Bhd (a Malaysian company - hereinafter shall be referred to as 'IEVSB'), had sued the plaintiffs for alleged infringement of patent rights ('the infringement suit'). In that suit, the said two companies (the plaintiffs in the infringement suit) obtained an *ex parte* interlocutory
I injunction and an Anton Pillar Order against the plaintiffs in the present case. Pursuant to that Order, various goods and

documents were seized from the plaintiffs' premises. The plaintiffs appointed Messrs Skrine & Co. (a firm of advocates and solicitors) to represent them in the proceedings of the first civil suit; and succeeded in setting aside the interlocutory injunction and Anton Pillar Order.

[8] In the second civil suit, the plaintiff therein was the 2nd plaintiff in the present case. In this second suit, the 2nd plaintiff, through Messrs Skrine & Co., commenced an action against IEV to invalidate the patent obtained by IEV (the invalidation action). The 2nd plaintiff substantially succeeded in its action and obtained an Order of the court dated 13 November 1995.

[9] In para. 10 of their statement of claim in the present case, the plaintiffs allege that the defendant had on 18 July 1996, without the knowledge or authorization of the plaintiffs, purported to replace Messrs Skrine & Co as the plaintiffs' solicitors by filing a notice of change of solicitors in the invalidation action file.

[10] In para. 12 of their statement of claim in the present suit, it is further alleged by the plaintiffs that subsequently, on 9 August 1996, the defendant, also without either the knowledge or authorization of the plaintiffs, purported to represent the plaintiffs in the infringement suit in place of Messrs Skrine by filing a notice of change of solicitors in the infringement suit file.

[11] In para. 14 of the statement of claim in the present proceeding, it is averred by the plaintiffs that the 2nd plaintiff was wound up pursuant to a court Order dated 31 October 1996 at the instance of a petitioner, UAC Berhad, and the official receiver was appointed as the liquidator.

[12] It is alleged by the plaintiffs in their statement of claim that the defendant, having unlawfully purported to represent the plaintiffs in the two civil suits, proceeded to do certain acts that compromised or were detrimental to the position of the plaintiffs in the proceedings in the two suits.

[13] In para. 13 of the statement of claim in the present case, it is alleged that the defendant without the knowledge or authorization of the plaintiffs purportedly consented to an application by IEV dated 19 July 1996 to set aside the Order (dated 13 November 1995) obtained by the 2nd plaintiff in the invalidation action.

[14] In para. 16 of the statement of claim, it is alleged by the plaintiffs that the defendant without the knowledge and authorization of the plaintiffs had purportedly consented to an application by IEV and IEVSB in the infringement suit to release a bank guarantee of RM100,000 earlier imposed by the court on IEV and IEVSB at the time of granting the interlocutory injunction and the Anton Pillar Order in the infringement suit.

[15] In para. 18 of the statement of claim, the plaintiffs allege that the defendant without the knowledge or authorization of the plaintiffs purportedly consented to a notice of discontinuance (dated 3 October 1998) of the infringement suit prepared by the solicitors acting for IEV and IEVSB.

[16] In para. 20 of the statement of claim, the plaintiffs allege that the defendant without the knowledge or authorization of the plaintiffs or the liquidator purported to consent on behalf of the 2nd plaintiff to the striking out of the invalidation action on 25 October 1999.

[17] In para. 21 of the statement of claim, the plaintiffs allege that after the winding up order, the defendant was never appointed by the liquidator (under s. 236 of the Companies Act 1965) to act as an advocate for the 2nd plaintiff.

[18] The principles governing particulars are fully set out by Arifin Zakaria J (as he then was) in *Dato' Seri Ling Liong Sik v. Krishna Kumar s/o Sivasubramaniam* [2002] 2 CLJ 642 as follows (at p. 646):

> The principles governing particulars
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> At the outset, it is necessary to state the functions of particulars. This is comprehensively set out in the Supreme Court Practice (1997, Vol 1) at p 308 which reads:
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> The function of particulars is accordingly:
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> (1) to inform the other side of the nature of the case that they have to meet as distinguished from the mode in which that case is to be proved (per Lindley LJ in *Duke & Sons v. Wisden Co* [1897] 77 LT 67 at p 68, per Buckley LJ in *Young (G & W) & Co Ltd v. Scottish Union & National Insc Co* [1907] 24 TLR 73 at p 74, *Aga Khan v. Times Publishing Co* [1924] 1 KB 675 at p 679);

(2) to prevent the other side from being taken by surprise at the trial (per Cotton LJ in *Spedding v. Fitzpatrick* [1888] 38 Ch D 410 at p 413, *Thomson v. Birkley* [1882] 31 WR 230);

(3) to enable the other side to know with what evidence they ought to be prepared and to prepare for trial (per Cotton LJ *ibid*; per Jessel MR in *Thorp v. Holdsworth* [1876] 3 Ch D 637 at p. 639; *Elkington v. London Association for the Protection of Trade* [1911] 27 TLR 329 at p 330);

(4) to limit the generality of the pleadings (per Thesiger LJ in *Saunders v. Jones* [1877] 7 Ch D 435) or of the claim or the evidence (*Milbank v. Milbank* [1900] 1 Ch 376 at p 385);

(5) to limit and define the issues to be tried, and as to which discovery is required (*Yorkshire Provident Life Assurance Co v. Gilbert and Rivington* [1895] 2 QB 148; per Vaughan Williams LJ in *Milbank v. Milbank* [1900] 1 Ch 376; 385);

(6) to tie the hands of the party so that he cannot without leave go into any matters not included (per Brett LJ in *Philipps v. Philipps* [1878] 4 QBD 127 p 133; *Woolley v. Broad* [1892] 2 QB 317) 'All material facts' para 18/7/10: and *Woolley v. Broad* [1892] 2 QB 317). But if the opponent omits to ask for particulars, evidence may be given which supports any material allegation in the pleadings *Dean of Chester v. Smelling Corp* [1902] WN 5; *Hewson v. Cleeve* [1904] 2 lr R 536).

It may be necessary to state in general terms the principles governing particulars. Firstly, particulars may only be sought of matters arising from the pleadings. Secondly, it is a matter of discretion of the court whether to grant an order of particulars (see *Dato' V Kanalingam v. Tommy Thomas* [1997] 5 MLJ 229, *Tan Hoe Knock v. Ali Akarbara bin Mangudin & Ors* [1997] 4 MLJ 311). Finally it should be emphasized that particulars would not generally be ordered in respect of matters of evidence or inference drawn or substitute interrogatories (see *Dato' V Kanalingam v. Tommy Thomas*).

[19] In the present case, by a summons in chambers application *vide* encl. 7, further and better particulars were sought by the plaintiffs in respect of paras. 5(a), and paras 5(d) - (m) of the statement of defence and counter-claim. The defendant objected to furnishing the particulars sought. The Senior Assistant Registrar disallowed the application, and hence the present appeal.

[20] In allowing the appeal, I applied the principles that I have mentioned above.

[21] Paragraph 5 of the statement of defence and counter-claim begins with the words:

> 5. Paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26 and 27 are denied. In respect of the paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26 and 27 the defendant states as follows;

[22] I shall begin with para. 5(a) of the statement of defence and counter-claim. This sub-paragraph (a) reads:

> (a) Messrs Rashid & Lee now known as Shahrizat Rashid & Lee (hereinafter referred to as 'the defendant') was appointed on July 1996 by the 2nd plaintiff and were instructed by the 2nd plaintiff to take conduct of three (3) cases;
>
> (i) W-02-771-95
>
> (ii) D2-22-112-94
>
> (iii) D4-24-44-94

[23] The plaintiffs in para. 3 of their reply and defence to the defendant's statement of defence and counter-claim deny the above allegation and aver that at no time did the 2nd plaintiff appoint the defendant's firm in place of Messrs Skrine & Co.

[24] The further and better particulars sought by the plaintiffs are as follows:

> Paragraph 5(a)
>
> (i) Give the name and address of the person from the 2nd plaintiff who appointed the defendant to act for the 2nd plaintiff?
>
> (ii) Was the person who appointed the defendant a director of the 2nd plaintiff?
>
> (iii) Provide the name of the partner or advocate and solicitor from the defendant who received the instructions from the person referred to in item 1 above?
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> (iv) Was the appointment made orally or in writing?
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> (v) If orally, please state how, where and when the said appointment was made?

(vi) If in writing, please identify the document by which the appointment was made? A

(vii) Was any resolution of the Board of Directors of the 2nd plaintiff delivered to you at the time of the said appointment or soon thereafter? B

[25] I have allowed all the seven items of the particulars sought by the plaintiffs in respect of sub-para. (a) of para. 5 of the statement of defence and counter-claim.

[26] Next, para. 5(d) of the statement of defence and counter-claim reads: C

(d) By a letter dated 9.8.1996 from the defendant to Messrs Skrine & Co and Messrs Ram Rais, a copy of the Notice of Change of Solicitors dated 8.8.1996 was duly served on the said solicitors. A copy of the aforesaid letter dated 9.8.1996 from the defendant was also delivered by the 2nd plaintiff to the 1st plaintiff; D

[27] The plaintiffs in their reply and defence to the statement of defence and counter-claim aver that: E

4. Any change of Solicitors that was filed by the Defendant and any correspondence that was exchanged between the Defendant and Messrs Skrine & Co. was without the Plaintiffs' authorization, instructions, knowledge and express or implied consent and the Plaintiffs deny paragraphs 5(c) and (d) of the Defence or that any copy of any letter was delivered by the 2nd plaintiff to the 1st plaintiff. F

[28] The particulars sought by the plaintiffs in respect of para. 5(d) are as follows: G

Paragraph 5(d)

(i) Name the person who provided you with the 2nd plaintiff's address for purposes of communications?

(ii) To which address of the 2nd plaintiff was the copy of the letter dated 09.08.1996 delivered by the defendant? H

(iii) How was the said letter delivered to the 2nd plaintiff?

(v) Provide the name and address of the person from the 2nd plaintiff who delivered the letter to the 1st plaintiff? I

(vi) Provide the address of the 1st plaintiff where the said letter was alleged to have been delivered?

[29] In respect of the above particulars sought by the plaintiffs, I have only allowed the particulars sought by items (iv) and (v). Since the issue of the appointment of the defendant by the plaintiffs is crucial, and since the defendant alleges that the 2nd plaintiff had delivered the said letter (containing the notice of change of solicitors) to the 1st plaintiff, and this allegation is denied by the plaintiffs, the defendant is under a duty to furnish the plaintiffs with the relevant particulars pertaining to the delivery of the letter.

[30] Next, para. 5(e) of the statement of defence and counter-claim reads:

> (e) By a letter dated 19.10.1996, the defendant wrote to the 2nd plaintiff to the attention of the 1st plaintiff, enclosing a copy of an affidavit affirmed by the 1st plaintiff which was prepared by the defendant in respect of Civil suit No: D4-24-44-94;

[31] Civil suit D4-24-44-94, as mentioned above, is the invalidation action that I have referred to earlier. The plaintiffs in their reply to the above averment (see para. 5 of the reply to the statement of defence and counter-claim) deny having received the above letter or having affirmed an affidavit as alleged. The plaintiffs allege that the affidavit was prepared without their authorization and that the signature in the alleged affidavit was a forged signature.

[32] The particulars sought by the plaintiffs with regard to para. 5(e) are as follows:

Paragraph 5(e)

(i) To which address of the 2nd plaintiff did the defendant write the letter dated 19.10.1996?

(ii) Provide the name and address of the person from the 2nd plaintiff who instructed you to prepare the affidavit?

(iii) How were the instructions given to the defendant and to which member of the defendant's firm were these instructions given to?

(iv) Was any draft affidavit prepared and or sent to the 2nd plaintiff for the approval of the 1st plaintiff or the 2nd plaintiff and if so to which address was the same sent?

(v) Who provided you with particulars, details including the residential address of the 1st plaintiff for the purposes of drawing the affidavit?

(vi) Were any corrections made to the draft affidavit by either the 1st or 2nd plaintiffs?

(vii) Who from the defendant's office telephoned or contacted the 1st plaintiff to affirm the said affidavit?

(viii) Did anyone from the defendant's office accompany the 1st plaintiff to the Commissioner of Oaths to affirm this affidavit?

(ix) Did the 1st plaintiff attend upon the defendants office to give any instructions and if so when and who did he meet at the defendants office?

[33] I have allowed the application in respect of particulars sought in item (i) and items (iii) - (viii). Since the plaintiffs maintain that they never appointed the defendant, nor authorised the preparation of any affidavit; and had never affirmed any affidavit, they are entitled to the particulars sought regarding the alleged letter and affidavit.

[34] Paragraph 5(f) of the statement of defence and counter-claim reads:

(f) By a letter dated 22.11.1996, from the defendant to Messrs Ram Rais, the defendant stated that under Civil Suit: D2-22-112-94 they have no objection to the application that was fixed for hearing on 28.11.1996;

[35] Civil Suit D2-22-112-94 mentioned above is the infringement suit that I have referred to earlier. In their reply to the above averment (see para. 6), the plaintiffs aver that the defendant was never authorised to write any letter stating that the plaintiffs had no objection to the application in respect of the infringement suit.

[36] The particulars sought by the plaintiffs are as follows:

Paragraph 5(f)

(i) Provide the name and address of the person from the 2nd plaintiff who instructed the defendant to write the letter of 22.11.1996?

(ii) How and when were these instructions communicated to the defendant?

A (iii) If these instructions were oral, name the person from the defendant's firm who received these instructions?

(iv) If these instructions were in writing, identify the document giving such instructions?

B (v) Was the defendant aware as on 22.11.1996 that the 2nd plaintiff had been wound up by Order of Court dated 31.10.1996?

[37] I did not allow the application in respect of the above particulars sought to be furnished. I did not allow because C para. (f) of the statement of defence and counter-claim does not allege that it was the 2nd plaintiff who instructed the defendant to write the letter to Messrs Ram Rais. Hence the particulars sought by the plaintiffs are unjustified.

D **[38]** Paragraph 5(g) of the statement of defence and counter-claim reads:

(g) By a letter dated 2.12.1996, the defendant wrote to Messrs Ram Rais wherein a copy of the duly signed draft order had been sent to Messrs Ram Rais. A copy of the aforesaid E letter dated 2.12.1996 was also sent to the 1st plaintiff and 2nd plaintiff.

[39] In para. 6 of their reply to the above averment, the plaintiffs aver that the defendant was never authorised to write the above-F said letter and deny ever receiving a copy of the same.

[40] The particulars sought by the plaintiffs are as follows:

Paragraph 5 (g)

G (i) Provide the name and address of the person from the 2nd plaintiff who instructed you to agree and sign the draft order prepared by Messrs Ram Rais?

(ii) How and when were the instructions given and who from the defendant's firm received the same?

H

(iii) To which addresses were the copies of the letter sent to the 1st plaintiff and the 2nd plaintiff?

(iv) How were copies of the letter sent to the 1st plaintiff and the 2nd plaintiff?

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[41] I have allowed the application but only in respect of items (iii) and (iv). The plaintiffs are entitled to ask for these particulars as they deny ever receiving the said letter. I have disallowed the request under items (i) and (ii) because para. 5(g) does not allege that it were the plaintiffs who instructed the defendant to write the letter.

[42] Paragraph 5(h) of the statement of defence and counter-claim reads:

> 5(h) By a letter dated 7.1.1997, 11.4.1997 and 11.9.1997, the defendant wrote to the 2nd plaintiff to the attention of the 1st plaintiff and informed the 2nd plaintiff of the developments of the case in the Civil Suit No. D2-22-112-94;

[43] The plaintiffs in para. 7 of their reply and defence deny sub-paras (h), (i), (j) and (k) of para. 5 of the statement of defence and counter-claim. In particular, they deny receiving the letters as alleged. They aver that they were not aware of the application by IEV to set aside the invalidation order. They deny ever consenting to any notice of discontinuance.

[44] The particulars sought by the plaintiffs in respect of para. 5(h) are as follows:

> Paragraph 5(h)
>
> (i) To which address of the 2nd plaintiff were the letters sent?
>
> (ii) How were the letters sent to the address?
>
> (iii) Did the 1st plaintiff contact anyone from the defendant's office after any of the said letters were sent, if so, when and who did he contact?

[45] I have the allowed the plaintiffs' application for particulars but only in respect of items (i) and (ii) above. Item (iii) does not relate to a matter that arises from the pleadings.

[46] Paragraph 5(i) of the statement of defence and counter-claim reads:

> (i) By a letter dated 25.9.1998 from the defendant to the 1st plaintiff, a copy of the letter from Messrs Ram Rais dated 22.9.1998 was duly sent to the 1st plaintiff requesting for the 2nd plaintiff's instruction to proceed with Civil Suit No.

D2-22-112-94. The aforesaid letter clearly demonstrates that the 2nd plaintiff was fully aware of the IEV International PTY Limited's application to set aside the Invalidation Order;

[47] The particulars sought by the plaintiffs are as follows:

Paragraph 5(i)

(i) To which address of the 1st plaintiff was the letter of 25.9.1998 sent by the defendant?

(ii) Who provided the defendant with the address of the 1st plaintiff?

(iii) Did the 1st plaintiff contact the defendant after the said letter was delivered to him and give any instructions, if so, when and how were the instructions given?

(iv) Identify the person from the 2nd plaintiff who contacted the defendant and gave instructions, if so when and how were these given?

(v) If instructions were oral, then to whom in the defendant's office ware given the same?

(vi) If in writing, identify the document in which the instructions were given.

[48] I have allowed the application but only in respect of items (i) and (ii).

[49] Paragraph 5(j) and (k) of the statement of defence and counter-claim reads:

(j) By a letter dated 1.10.1998 from the defendant to the 2nd plaintiff to the attention of the 1st plaintiff, the defendant had informed the plaintiff on the discontinuance of Civil Suit No. D2-22-112-94 and the Appeal Case No. W-022-771-95;

(k) By a letter dated 9.10.1998 from the defendant to the 2nd Plaintiff to the attention of the 1st Plaintiff, the 2nd Plaintiff was duly informed of the Notice of Discontinuance filed in the Court in respect of Civil Suit No. D2-22-112-94 and the Appeal Case No. W-02-771-95;

[50] The particulars sought by the plaintiffs are as follows:

Paragraph 5(j) & 5(k)

(i) To which address of the 2nd plaintiff were the letters of 1.10.1998 and 9.10.1998 sent to?

(ii) Who from the 2nd plaintiff instructed the defendant to discontinue the Civil Suit No. D2-22-112-94 and Appeal Case No. W-02-771-95?

(iii) How and when were the instructions given?

(iv) If oral, to whom in the defendant's office were these given?

(v) If in writing, identify the document in which the instructions were given.

[51] I have allowed the plaintiffs' application in respect of all the above five items.

[52] Paragraph (1) of the statement of defence and counter-claim reads:

(1) By a letter dated 1.11.1999 to the 2nd plaintiff to the attention of one Sri Kanthan, the defendant informed the 2nd plaintiff of the decision of the mention date on 25.10.1999 by the learned Honourable Judge Yang Arif Dato' Yaakob Ismail. The 2nd plaintiff was informed that the Learned Judge had dismissed Civil Suit No. D4-24-44-94 without cost by reason of both the 2nd plaintiff and IEV International PTY Limited having settled the matter;

[53] In para. 8 of the plaintiffs' reply to the above averment of the defendant, the 2nd plaintiff denies ever receiving the alleged letter dated 1 November 1999. The plaintiffs deny that the said Sri Kanthan was employed by the 2nd plaintiff prior to being wound up. The plaintiffs aver that the said Sri Kanthan had no authority to represent the 2nd plaintiff in the proceedings or to give any instruction to the defendant.

[54] The particulars sought by the plaintiffs are as follows:

Paragraph 5(I)

(i) Who is Sri Kanthan?

(ii) Was Sri Kanthan an officer of the 2nd plaintiff?

(iii) If so who from the 2nd plaintiff informed the defendant that Sri Kanthan was an officer of the 2nd plaintiff?

A (iv) How was this information in (iii) above given to the defendants?

(v) If oral then identify the officer from the defendants to who the information was given?

B (vi) If in writing then identify the document by which this information was given to the defendants?

(vii) Who from the 2nd plaintiff instructed the defendants to write the letter of 1.11.1999 to the attention of Sri Kanthan?

C

(viii) How were these instructions given to the defendants?

(ix) If in writing identify the document, if oral identify the officer of the defendants to whom the instructions was given?

D

(x) Who from the 2nd plaintiff instructed the defendants to attend before the Hon. Judge Dato' Yaakob Ismail?

(xi) How were these instructions given?

E (xii) If in writing identify the document giving the instructions?

(xiii) If oral identify the officer from the defendants to whom the instructions were given?

(xiv) Who instructed the defendants that the 2nd plaintiff and
F IEV International PTY Limited had settled the matter in relation to the Civil Suit D4-24-44-94?

(xv) When and how were these instructions given?

(xvi) If oral then identify the officer of the defendants to whom
G these were given?

(xvii) If in writing identify the document in which the settlement is recorded?

[55] I have allowed the plaintiffs' application for particulars in
H respect of items (i), (ii), (iii), (iv), (v), (vi), (xiv), (xv), (xvi), and (xvii). In the light of para. 8 of the plaintiffs' reply, the plaintiffs to my mind are justified in asking for these particulars pertaining to the alleged role of 'Sri Kantan' and the alleged 2nd plaintiff's settlement with IEV.

I

[56] Paragraph 5(m) of the statement of defence and counter-claim reads:

> (m) On or about September 2000, the 2nd Plaintiff had paid the Defendant's legal fees and the Defendant had proceeded to close the file.

[57] In para. 5 of their reply and defence, the 2nd plaintiff denies having made any payment of legal fees, and avers that in September 2000 the 2nd plaintiff was still a wound up company.

[58] The particulars sought by the plaintiffs in respect of the above para. 5(m) are as follows:

> Paragraph 5(m)
>
> (i) To whom was the defendant's bill for the legal fees sent and to which address and if so when was it sent and identify the bill?
>
> (ii) Were the legal fees paid by cheque or in cash?
>
> (iii) If by cheque, on whose account was the cheque drawn out?
>
> (iv) If in cash, identify the person who attended upon the defendant to pay the same.

[59] I have allowed the plaintiffs' application in respect of all the four items. In view of the position taken by the plaintiffs in their pleadings, the particulars asked for are fair and relevant.